



**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of

Implementation of the Affordable
Connectivity Program

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WC Docket No. 21-450

**COMMENTS OF
E-RATE CENTRAL
AND
THE SCHOOLS, HEALTH & LIBRARIES BROADBAND (SHLB) COALITION**

E-Rate Central and the Schools, Health & Libraries Broadband (SHLB) Coalition submit these comments in response to Public Notice DA 21-1453 seeking comment on the implementation of the Affordable Connectivity Program (“ACP”) established by the Infrastructure Investment and Jobs Act (“Infrastructure Act”). The ACP builds upon and extends the Emergency Broadband Benefit (“EBB”) Program created in the Consolidated Appropriations Act of 2021.

E-Rate Central and SHLB strongly support efforts to make broadband services available and affordable for everyone. We were extremely pleased that Congress created both the EBB program and the Emergency Connectivity Fund (ECF) to help low-income consumers obtain affordable internet access. While Congress recently extended the EBB program (re-naming it as the ACP), it is not clear that the ECF program will be extended as of this writing. We submit these comments to emphasize the importance of incorporating some of the benefits of the ECF program into the ACP program going forward.

We have three recommendations. First, E-rate Central and SHLB encourage the Federal Communications Commission (FCC or Commission) to adapt the proposed ACP rules for multiple dwelling units to accommodate the transient population in homeless centers. Second, we urge the Commission to extend the deadline for the ECF program until June 30, 2023 (unless extended by Congress). Third, E-Rate Central and SHLB urge the Commission to enact transitional ECF-to-ACP rules that would provide a seamless transition of school and library bulk ECF subscription plans into the ACP for all eligible households. These recommendations are discussed more fully below.

I. ACP rules should explicitly include homeless centers as eligible for support under the multiple dwelling unit provisions. Minor rule changes on family eligibility may be required to account for the transient nature of homeless center residents.

EBB program rules, as laid out in the FCC's [Report and Order](#) adopting rules for the EBB program on February 26, 2021, and the proposed [ACP rules](#) both recognize the importance and the efficiency of providing bulk broadband support in multi-family situations. E-Rate Central and SHLB are concerned, however, that the scope of the multi-family rules proposed for the ACP too narrowly limits the opportunity to effectively meet the needs of the target population. The applicable section of the ACP Public Notice reads:

57. Multiple Dwelling Units. We also seek comment on whether the Commission should adopt measures to make it easier for residents in multiple dwelling units with bulk broadband providers to participate in the Affordable Connectivity Program. In the EBB Program Order, the Commission determined that eligible households that “live at a single address, such as senior and student living, mobile home parks, apartment buildings, and federal units, that receive service as part of a bulk

billing arrangement where the households ‘are not directly billed for services by their internet service provider, but instead pay a monthly fee for broadband services to their landlord’” should be permitted to participate in the EBB Program. The Commission agreed with commenters and made the EBB Program available to such households, “as long as the provider is approved in the Program and the household is eligible under the statute,” and set out additional guidelines for such situations. Should the Commission adopt this flexibility in the Affordable Connectivity Program? What else should the Commission consider about such arrangements?

Homeless centers are one particular type of multiple dwelling unit that should be specifically cited as eligible in the ACP rules. There are several reasons to definitively designate homeless centers as ACP-eligible:

- Homeless centers clearly fit the definition of multiple dwelling units because multiple families reside in a single location.
- In addition to meeting the internet needs of the centers’ adult population, adequate internet service in homeless centers may be the only practical way to meet the educational needs of students residing there. In some cities, such as New York, xx% or more of the student population may reside in a homeless center for significant portions of the school year. Adequate remote learning and/or homework-capable internet service is critical to those students’ education.
- Unlike a traditional apartment complex into which internet service may be hard-wired into individual family units, many homeless centers will be best served by robust WiFi service.
- Acknowledging the transient nature of homeless center populations may be necessary to craft slightly different regulations to calculate discounts and to track family eligibility. On the plus side, the eligibility of families within homeless centers is likely to be unquestioned. On the other hand, it may be necessary to track discounts to the centers themselves, based on capacity and occupancy rates rather than on individual families. For instance, the Commission could make the centers themselves eligible for ACP discounts rather than individuals or individual families. Center discounts could be based on capacity or average occupancy rates. Doing this will address issues with trying to track the transient nature of homeless center populations and we strongly suggest the Commission consider this. This may require certifications from center management to the service providers for invoicing purposes.

II. THE COMMISSION SHOULD EXTEND THE ECF PROGRAM TO JUNE 30, 2023.

E-Rate Central and SHLB submit that ECF funding for should be extended beyond June 30, 2022, so as to fully utilize remaining ECF funding not already committed or not invoiced as of August 29, 2022.¹ As indicated in the APPENDIX, we estimate that total commitments for funding requested in the first two ECF windows will ultimately total less than \$5.9 billion. Allowing for ECF administrative costs, that should leave \$1 billion or more that the FCC could use to extend ECF funding well into 2023. We believe that service delivery date should be extended to June 30, 2023, subject to further extension by Congress.

III. Schools and libraries, which are currently permitted to engage in bulk purchasing under the ECF program, should also be permitted to participate in the ACP program so that they can continue providing services to low-income families after the ECF program sunsets.

In its adoption of EBB rules for multiple dwelling units, the Commission noted: “Similarly, there may be ‘entities such as school districts, health care providers, assisted living or nursing facilities, and local governments who purchase service ‘in bulk’ for eligible households.’”² The eligibility of “assisted living and nursing facilities” in EBB is apparently proposed to be carried over — and rightly so — into ACP under the “senior...living” language of Paragraph 57. The proposed ACP rules, however, make no mention of bulk billing arrangements for schools, school districts, or libraries that were presumably eligible under EBB. E-Rate Central and SHLB believe that such bulk subscriptions should be deemed eligible under ACP.

While the EBB rules initially allowed schools and libraries to engage in bulk purchases, few schools and libraries did so, primarily because Congress passed the ECF legislation about the same time that the EBB program began. The ECF program provides somewhat greater benefits to low-

¹ We understand that Congress may extend the deadline for the ECF program if the Build Back Better Act is enacted, but passage of that legislation is uncertain.

² EBB Report and Order, para 45.

income families, providing 100% reimbursements of broadband service and up to \$400 in support for broadband devices. Thousands of schools and libraries applied for ECF funding in the summer and fall of 2021. ECF reimbursements are scheduled to end June 30, 2022, while ACP discounts could remain viable for several more years.

ECF has been a critical source of funding for students and patrons during the pandemic but it is only a temporary solution. ACP provides a more sustainable source of longer-term funding that can be used in part to address the “Homework Gap.” As such, E-Rate Central and SHLB believe that multi-family bulk subscription internet plans for schools and libraries, like multiple dwelling unit plans, should be ACP eligible. To do otherwise, would require schools and libraries to begin absorbing the full cost of existing internet services for students and patrons, or, more likely, to cancel their bulk subscription plans while, at the same time, encouraging participating school and library families to apply individually for ACP discounts. The latter option is administratively inefficient and, more importantly, highly disruptive for needy families relying on discounted internet services.

E-Rate Central and SHLB believe that the Commission’s goal should be to seamlessly integrate existing ECF funding with the new ACP funding. One simple way to accomplish this would be to transition internet services over to ACP funding as of July 1, 2022, on behalf of all qualified families (or whenever the ECF program sunsets). As a part of the ECF-to-ACP transition, we propose that all participating schools and libraries certify the eligibility of the families receiving continued service. To the extent that schools and libraries decide to continue internet service to non-eligible families with unmet needs (as defined under the ECF rules), bifurcated billing may be required to facilitate accurate ACP invoicing.

ACP rules should permit a seamless transition from ECF reimbursed internet services to discounted ACP services for eligible families at the extended ECF service delivery date. Under this plan, eligible families, currently receiving internet service paid for with ECF funds, would continue to receive internet services under bulk subscription plans under ACP coordinated by their schools or libraries. As such, all parties would benefit.

- Low-income student or patron families would continue to benefit from subsidized internet service without disruption. The families would not need to apply for ACP discount separately.
- Schools and libraries would continue to provide ECF-funded internet service, most likely for an additional half or full year beyond June 30, 2022. Note that, to the extent hotspots had been funded during the initial 2021-2022 ECF funding year, the total demand for recurring costs for internet service for an extended ECF services would be less.
- Schools would be assured that their low-income students would continue to receive uninterrupted internet service throughout the ECF-to-ACP transition period. Ongoing educational programs, whether they involve remote learning or internet-based homework, would not be adversely impacted.
- Service providers would not have to individually enroll families into their own ACP accounts nor, with the help of the schools and libraries, validate income eligibility.
- USAC's ACP long-term administrative costs would be minimized.
- The FCC would be able to engineer an ordered end to the ECF program, utilizing most all available funding without establishing additional rules for one or more new, but smaller, application windows

IV. Should the Commission not authorize a bulk subscription ECF-to-ACP option for low-income school and library families, those schools and libraries should be encouraged to become active outreach partners to help those families enroll individually in the ACP program.

To the extent that the Commission does not provide a smooth, bulk subscription-based, option to transition ECF-to-ACP benefits for low-income families — and the schools and libraries determine that they cannot fund continued internet services to those families on their own as would likely be the case — every effort should be made to encourage the schools and libraries to become active outreach partners for ACP. The Commission should develop a special school grant program, as permitted under the Infrastructure Act, that would permit the schools to recoup, or at least offset,

unreimbursed expenses associated with providing internet services to their students initially and/or coping with the disruptive transition of student internet services from a bulk subscription ECF environment to individual, non-standard, internet services.

V. Conclusion

E-Rate Central and SHLB encourage the Commission to develop its ACP rules in a manner that best smooths the transition of internet service funding for eligible school and library families from the ECF program to the ACP program. With whatever funding remains in the ECF program after the first two rounds of funding are provided, the Commission should move to extend the coverage period for internet services to June 30, 2023.

At the ECF-to-ACF transition point, E-Rate Central and SHLB recommend that the Commission explicitly recognize the eligibility of homeless centers as multiple dwelling units and the multi-family needs currently being efficiently served by bulk subscription plans of the ECF-participating schools and libraries.

Respectfully Submitted by:



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APPENDIX

Estimated ECF Funding Requirements Based on Applications Filed in Windows 1 and 2

Total requested funding in Waves 1 and 2, and total committed ECF funding as of Wave 5 (issued November 24th), are shown in the table below. Both requested and approved funding is shown in total and by equipment and service types.

ECF Funding Nationwide							
		Equipment		Services		Equipment + Services Totals	
Filing Window	ECF Wave Number	Original FRN Total Charges	Current FRN Approved Amount	Original FRN Total Charges	Current FRN Approved Amount	Original FRN Total Charges	Current FRN Approved Amount
ECF Window 1		791,862,145	-	787,410,010	-	1,579,272,155	-
ECF Window 1	1	1,176,641,069	1,047,005,762	155,665,780	156,101,735	1,332,306,849	1,203,107,497
ECF Window 1	2	931,160,032	857,194,376	338,029,035	302,486,975	1,269,189,067	1,159,681,351
ECF Window 1	3	248,905,106	214,160,602	54,774,820	55,245,673	303,679,926	269,406,275
ECF Window 1	4	320,293,749	291,707,389	136,361,391	129,751,108	456,655,140	421,458,497
ECF Window 1	5	155,831,001	133,233,946	40,324,708	36,063,555	196,155,709	169,297,501
ECF Window 2		928,347,649	-	367,556,634	-	1,295,904,283	-
Grand Total		4,553,040,751	2,543,302,075	1,880,122,378	679,649,046	6,433,163,129	3,222,951,121

Please note the following:

- As previously reported, total funding requested as of ECF Window 2 was \$6.43 billion.
- Total requests for services (\$1.88 billion) represented only 29.2% of total demand.
- Total funding as of Wave 5 is \$3.22 billion
 - FCDLs had been issued for 55.3% (by dollar amount) of the total initial demand.
 - Total approvals represent 90.6% of original requests.
- Total equipment funding as of Wave 5 is \$2.54 billion
 - FCDLs had been issued for 62.2% of the initial demand.
 - Total approvals represent 89.8% of original requests.
- Total services funding as of Wave 5 is \$0.68 billion
 - FCDLs had been issued for 38.0% of the initial demand.
 - Total approvals represent 95.0% of original requests.

Assuming that the remaining equipment and service applications are committed at the same approval percentages, the total committed funds for ECF Window 1 and ECF Window 2 would be:

Equipment:	\$4,087,698,190
Services	<u>1,786,776,388</u>
	\$5,874,474,578